



January 30, 2002

HOUSE BILL No. 1055

DIGEST OF HB 1055 (Updated January 29, 2002 12:33 PM - DI 103)

Citations Affected: IC 5-22.

Synopsis: Review of privatization savings. Provides that a contract or the solicitation for a contract to privatize any of the functions currently performed by a governmental body's employees must: (1) require an offeror to provide verifiable evidence that the cost of the contract will be less than the cost of having the functions performed by the governmental body's employees; (2) specify that the governmental body may not pay the contractor more than the cost that the contractor determined the governmental body would incur to perform the functions using its own employees; (3) require the governmental body to provide to an offeror an estimate of the cost of having the functions performed by the governmental body's employees; and (4) contain a statement that the governmental body may pursue certain remedies if the contractor fails to comply with the contract. Excludes from the requirements of the bill purchases from qualified nonprofit agencies for persons with severe disabilities.

Effective: July 1, 2002.

Dickinson

January 8, 2002, read first time and referred to Committee on Commerce, Economic Development and Technology.
January 29, 2002, amended, reported — Do Pass.

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January 30, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1055

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-22-5-9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2002]: **Sec. 9. (a) This section applies to a solicitation for a**
4 **contract that would require the contractor to perform any of a**
5 **governmental body's functions that are performed at the time of**
6 **the solicitation by the governmental body's employees. This section**
7 **does not apply to a purchase under IC 5-22-13.**

8 **(b) The solicitation must include the following:**

9 **(1) An estimate of the cost that the governmental body would**
10 **incur if performing the functions covered by the contract with**
11 **the governmental body's employees during the period**
12 **comprising the term of the proposed contract. The estimate**
13 **must include labor, overhead, and other administrative costs.**

14 **(2) A requirement that the offeror must provide objective,**
15 **verifiable evidence that:**

16 **(A) is satisfactory to the governmental body; and**

17 **(B) demonstrates that if the offeror is awarded the**

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contract, the cost of the contract over the term of the contract will be less than the amount described in subdivision (1).

(3) A statement that the contract between the governmental body and the offeror must contain a provision that the governmental body may not pay to the offeror over the term of the contract more than the cost that the offeror determined the governmental body would incur to perform the functions with the governmental body's employees during the period comprising the term of the contract.

(4) A statement that the contract between the governmental body and the offeror may provide for the deposit of surety bonds, the making of good faith deposits, liquidated damages, the right of reversion or repurchase, or other rights and remedies if the offeror fails to comply with the contract.

SECTION 2. IC 5-22-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Supplies and services purchased under this chapter must:

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price.

(b) Supplies and services purchased under this chapter are not subject to IC 5-22-5-9.

SECTION 3. IC 5-22-16-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) This section applies to a solicitation for a contract that would require the contractor to perform any of a governmental body's functions that are currently performed by the governmental body's employees. This section does not apply to a purchase under IC 5-22-13.

(b) An offeror may not be considered responsive to the solicitation if the offeror does not provide objective, verifiable evidence that:

(1) is satisfactory to the governmental body; and

(2) demonstrates that if the offeror is awarded the contract, the cost of the contract over the term of the contract will be less than the cost that the governmental body estimates that the governmental body would incur if performing the functions covered by the contract with the governmental body's employees during the period comprising the term of the proposed contract.

SECTION 4. IC 5-22-17-15 IS ADDED TO THE INDIANA CODE



1 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2002]: **Sec. 15. (a) This section applies to a contract that would**
3 **require the contractor to perform any of a governmental body's**
4 **functions that are performed before the contract is entered into by**
5 **the governmental body's employees. This section does not apply to**
6 **a purchase under IC 5-22-13.**

7 **(b) A contract referred to in subsection (a) must contain the**
8 **provision described in IC 5-22-5-9(b)(3).**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Economic Development and Technology, to which was referred House Bill 1055, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 6, after "employees." insert **"This section does not apply to a purchase under IC 5-22-13."**

Page 1, between lines 7 and 8, begin a new line block indented and insert:

"(1) An estimate of the cost that the governmental body would incur if performing the functions covered by the contract with the governmental body's employees during the period comprising the term of the proposed contract. The estimate must include labor, overhead, and other administrative costs."

Page 1, line 8, delete "(1)" and insert **"(2)"**.

Page 1, line 13, delete "cost that the governmental" and insert **"amount described in subdivision (1)."**

Page 1, delete lines 14 through 17.

Page 2, line 1, delete "(2)" and insert **"(3)"**.

Page 2, between lines 7 and 8, begin a new line block indented and insert:

"(4) A statement that the contract between the governmental body and the offeror may provide for the deposit of surety bonds, the making of good faith deposits, liquidated damages, the right of reversion or repurchase, or other rights and remedies if the offeror fails to comply with the contract."

SECTION 2. IC 5-22-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Supplies and services purchased under this chapter must:

(1) meet the specifications and needs of the purchasing governmental body; and

(2) be purchased at a fair market price.

(b) Supplies and services purchased under this chapter are not subject to IC 5-22-5-9."

Page 2, line 13, after "employees." insert **"This section does not apply to a purchase under IC 5-22-13."**

Page 2, line 20, after "body" insert **"estimates that the governmental body"**.

Page 2, line 29, after "employees." insert **"This section does not apply to a purchase under IC 5-22-13."**

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Page 2, line 31, delete "IC 5-22-5-9(b)(2)." and insert "**IC 5-22-5-9(b)(3).**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1055 as introduced.)

FRY, Chair

Committee Vote: yeas 8, nays 2.

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